

1 CABINET FOR ENVIRONMENT AND PUBIC PROTECTION

2 DEPARTMENT OF PUBLIC PROTECTION

3 OFFICE OF INSURANCE

4 DIVISION OF HEALTH INSURANCE POLICY AND MANAGED CARE

5 (Emergency Amendment)

6 806 KAR 17:300E. Provider agreement and risk-sharing agreement filing requirements.

7 RELATES TO: 2004 Ky. Acts ch. 59

8 STATUTORY AUTHORITY: KRS 304.2-110(1), 2004 Ky. Acts ch. 59, sec. 8(1)

9 NECESSITY, FUNCTION, AND CONFORMITY: Executive Order 2003-064, filed
10 December 23, 2003, created the Environmental and Public Protection Cabinet. Executive Order
11 2004-031, filed January 6, 2004, abolished the Department of Insurance and transferred all its
12 “duties, functions, responsibilities, records, equipment, staff and support budgets” to the Office
13 of Insurance. KRS 304.2-110(1) provides that the commissioner may promulgate reasonable
14 administrative regulations necessary for or as an aid to the effectuation of any provision of the
15 Kentucky Insurance Code as defined in KRS 304.1-010. 2004 Ky. Acts ch. 59, sec. 8(1) requires
16 that the department promulgate administrative regulations regarding the manner and form of
17 required filings of sample copies of provider agreements. This administrative regulation
18 establishes those requirements.

19 Section 1. Definitions.

20 (1) “Covered person” is defined in 2004 Ky. Acts ch. 59, sec. 6(3).

(2) "Enrollee" is defined in 2004 Ky. Acts ch. 59, sec. 6(5).

(3) "Provider agreement" means a contract between a managed care plan and a provider for the provision of health care services.

(4) ~~{(2)}~~ "Risk-sharing arrangement" is defined in 2004 Ky. Acts ch. 59, sec. 6(13) ~~[KRS 304.17A-500(13)]~~.

(5) ~~{(3)}~~ "Subcontract agreement" means a contract for the provision of health care services to ~~[an enrollee between]~~:

(a) An enrollee between a [A] provider who is a participating provider with a managed care plan and a provider who is not a participating provider with a managed care plan; or

(b) A covered person between a [A] risk-sharing entity as referenced in 2004 Ky. Acts ch. 59, sec. 6(13) ~~[KRS 304.17A-500(13)]~~ and a provider.

Section 2. Filing Requirements.

(1) A sample copy of the following shall be filed with the commissioner at least sixty (60) days before its intended use:

(a) Provider agreement;

(b) Risk-sharing arrangement ~~[agreement]~~; and

(c) Subcontract agreement.

(2) A ~~[sample copy]~~ filing pursuant to subsection (1) of this section shall include:

(a) A compensation arrangement, including a description of the:

1. Payment methodology; and

2. Payor as defined in the agreement; and

(b) Any attachment, exhibit, or addendum to the items listed in subsection (1) of this section.

(3) A filing submitted to the commissioner shall include the following:

(a) A completed and signed Face Sheet and Verification Form HIPMC-F1, ~~[incorporated by reference in this administrative regulation]~~; and

(b) A filing fee as follows:

1. Twenty-five (25) dollars for a provider agreement or subcontract agreement; or

2. Fifty (50) dollars for a risk-sharing arrangement ~~[agreement]~~.

(4) A filing required pursuant to subsection (1) of this section shall:

(a) Not be considered complete until all information required by this administrative regulation is received by the Department of Insurance; and

(b) Be disapproved if a complete filing is not received within sixty (60) days of the date of filing.

(5) If a managed care plan amends an existing provider agreement or subcontract agreement that was previously filed with the commissioner, affecting any requirements of this administrative regulation, the managed care plan shall submit:

(a) An amended filing at least sixty (60) days before its intended use; and

(b) A letter that identifies and explains each amendment.

(6) The failure of a managed care plan to file a sample copy of a provider agreement or subcontract agreement, as required by subsections (1) and (5) of this section, may result in imposition of a civil penalty in accordance with KRS 304.99.

(7) If an insurer amends an existing risk-sharing arrangement ~~[agreement]~~ or subcontract agreement that was previously filed with the commissioner, affecting any requirements of this administrative regulation, the insurer shall submit:

(a) An amended filing at least sixty (60) days before its intended use; and

(b) A letter that identifies and explains each amendment.

(8) The failure of an insurer to file a sample copy of a risk-sharing arrangement or subcontract agreement, as required by subsections (1) and (7) of this section, may result in imposition of a civil penalty in accordance with KRS 304.99.

Section 3. Provider Agreement Requirements. A sample copy of a provider agreement filed with the commissioner shall:

(1) Comply with the requirements of 2004 Ky. Acts ch. 59, sec. 8(1) ~~[KRS 304.17A-527(1)]~~;

(2) Comply with the requirements of KRS 304.17A-728;

(3) Be governed by Kentucky law; and

(4) Not include the following provisions:

(a) A most-favored nation provision in accordance with KRS 304.17A -560;

(b) A limitation on disclosure provision in accordance with KRS 304.17 A-530;

(c) A condition of participation provision in accordance with KRS 304.17A-150(4); or

(d) A mandatory use of hospitalist provision in accordance with KRS 304.17A-532(2).

1 Section 4. Subcontract Agreement Requirements. A sample copy of a subcontract
2 agreement that is part of a provider agreement or risk-sharing arrangement shall:

3 (1) Be filed with the commissioner by the managed care plan or insurer in
4 conjunction with the provider agreement or risk-sharing arrangement; and

5 (2) Meet the requirements of Section 3~~[(1)]~~ of this administrative regulation.

6 Section 5. Risk-sharing Arrangement Requirements. (1) A sample copy of a risk-sharing
7 arrangement filed pursuant to section 2 of this administrative regulation [filing] shall:

8 (a)[(1)] Meet the requirements of Section 3~~[(1)]~~ of this administrative regulation;
9 and

10 (b) [(2)] Include a Risk-sharing Arrangement Information Sheet HIPMC-R1,
11 ~~incorporated by reference in this administrative regulation; and]~~

12 (2) On or before September 1 of each calendar year, an insurer shall file with the
13 commissioner form HIPMC-RI for each risk-sharing arrangement in force at that time.~~[(3)]~~

14 ~~—— Have an annual Risk sharing Arrangement Information Sheet HIPMC R1 filed before~~
15 ~~September 1 of each calendar year.]~~

16 Section 6. Incorporation by Reference.

17 (1) The following material is incorporated by reference:

18 (a) “Face Sheet and Verification Form HIPMC-F1, (9/00)”;
19 (b) “Risk-sharing Arrangement Information Sheet HIPMC-R1,” (7/00).

20 (2) This material may be inspected, copied, or obtained, subject to applicable
21 copyright law, at the Kentucky Office ~~[Department]~~ of Insurance, 215 West Main Street,
22 Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or at
23 <http://doi.ppr.ky.gov/kentucky/>

APPROVED:

Glenn Jennings, Acting Executive Director
Kentucky Office of Insurance

Date

James Adams, Commissioner
Department of Public Protection

Date

LaJuana S. Wilcher, Secretary
Environmental and Public Protection Cabinet

Date

Contact Person: Melea Kelch
Kentucky Office of Insurance
215 West Main Street
P.O. Box 517
Frankfort, KY 40602-0517
Phone: 502-564-6032
Fax: 502-564-1456

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation 806 KAR 17:300E, Provider agreement and risk-sharing agreement filing requirements.

Contact Person: Melea Kelch

(1) Provide a brief summary of:

What this administrative regulation does:

- (a) This administrative regulation provides necessary forms and filing requirements pursuant to 2004 Ky. Acts ch.59, sec. 8(1).
- (b) The necessity of this administrative regulation: This emergency administrative regulation is necessary to comply with 2004 Ky. Acts ch. 59, sec. 8(1)
- (c) How does this administrative regulation conform to the content of the authorizing statutes: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. 2004 Ky. Acts ch. 59, sec. 8(1) requires that the department promulgate administrative regulations prescribing the manner and form of required filings.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation aids in the effectuation of the statutes by prescribing the manner and form of necessary filings pursuant to 2004 Ky. Acts ch. 59, sec 8(1).

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) How the amendment will change this existing administrative regulation? The emergency amendment adds definitions and makes technical changes to the administrative regulation.
 - (b) The necessity of the amendment to this administrative regulation: This amendment is necessary to clarify the filing requirements pursuant to 2004 Ky. Acts ch. 59
 - (c) How the amendment conforms to the content of the authorizing statutes: This amendment clarifies the filing requirements of 2004 Ky. Acts ch. 59, sec 8 (1) by adding definitions and making technical changes brought about by the 2004 legislative session.
 - (d) How the amendment will assist in the effective administration of the statutes: This amendment incorporates changes brought about by the 2004 legislative session.
- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect approximately 45 Kentucky health insurers offering health benefit plans covering approximately 900,000 persons.
- (4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Little impact is expected since these required filings are not new.
- (5) Provide an estimate of how much it will cost to implement this regulation:
- (a) Initially: No additional cost.
 - (b) On a continuing basis. There should be no additional cost on a continuing basis.
- (6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? The budget of the Kentucky Office of Insurance.

- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. No increase in fees or funding is expected. Existing filing fees cited in this administrative regulation were not altered.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The emergency amendment to this administrative regulation does not establish any new fees. Fees already existing in the administrative regulation were not altered by the amendment
- (9) TIERING: Is tiering applied? No, the requirement will apply to all Kentucky Health Insurers offering health benefit plans.